



Statement of Kevin Kelly

**On behalf of the
National Association of Home Builders**

on

The Housing Affordability for America Act of 2002

**Washington, D.C.
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INTRODUCTION

Good afternoon. On behalf of the 205,000 members firms of the National Association of Home Builders, I would like to express our appreciation for being invited to testify on Title II of the Housing Affordability for America Act of 2002. My name is Kevin Kelly, and I am a builder from Wilmington, Delaware. I currently serve as president of Leon N. Weiner & Associates, Inc., a Wilmington-based home building, development and property management firm. The Weiner organization and its affiliates have developed and constructed more than 4,500 homes and 9,000 apartments as well as several hotels, office buildings and retail facilities.

TITLE II

Overall, Title II of the bill contains important provisions that are needed to increase the availability of affordable housing and expand homeownership and rental housing opportunities across the country. I will also comment on several of the provisions in other sections of H.R. 3995, which also have an impact on achieving these important goals.

FHA Multifamily Mortgage Insurance

NAHB is a strong supporter of the FHA multifamily mortgage insurance programs. We have worked with HUD and Congress over the years to bring improvements to the programs, which are critical to addressing the nation's affordable housing needs.

Indexing Of Multifamily Mortgage Limits

NAHB applauds Congress and HUD for increasing the FHA multifamily mortgage loan limits by 25 percent last year. The increase has already assisted in opening up markets previously unable to use the programs because the loan limits were too low. However, NAHB believes that, without an indexation for inflation, any gains realized from the 25 percent increase will be quickly lost.

We strongly support the inclusion of Section 201 of Subtitle A, which requires HUD to index the FHA multifamily mortgage loan limits each year, beginning in 2003, to the annual construction cost index published by the Bureau of the Census of the Department of Commerce. Indexing the loan limits will help stabilize the programs and give builders and lenders the confidence that they will be able to use the programs in their communities every year, even as construction and land costs rise over time.

High-Cost Areas

NAHB also strongly supports Section 202 of Subtitle A, which addresses the needs of high-cost markets where the base loan limits are too low. Currently, the law gives the Secretary of HUD the discretion to increase the base limits by up to 110 percent in geographic areas where construction costs are very high. The Secretary is also able, at

his discretion, to approve an increase of up to 140 percent for individual projects in high-cost areas. However, there are a number of high-cost urban markets, such as New York, Boston, San Francisco, Chicago and Los Angeles, where construction costs are significantly higher than in other areas of the country, and the high-cost factors have not been sufficient to allow use of the FHA multifamily mortgage insurance programs. NAHB conducted an analysis of those five high-cost urban areas, which demonstrates that, even with the recent 25 percent increase and current high-cost factors, costs exceed the current limits.

Section 202 of Subtitle A in H.R. 3995 increases the maximum high-cost factor from 110 percent to 140 percent in geographic areas and further provides the Secretary of HUD the discretion to increase the high-cost factor from 140 percent to 170 percent on a project-by-project basis.

NAHB believes that indexing the loan limits to inflation and increasing the high-cost factors together will greatly improve the FHA multifamily mortgage insurance programs. Markets previously unable to use the program would be able to provide much-needed new affordable housing to low- and moderate-income families.

FHA Single Family Mortgage Insurance

NAHB supports the provisions of this important bill that are aimed at improving the FHA single family mortgage insurance programs. These provisions would improve the efficiency of FHA's programs in a number of ways while enabling these programs to make homeownership attainable for more families.

Downpayment Simplification

NAHB supports making the simplified downpayment calculation method permanent. The strength of the Mutual Mortgage Insurance Fund has improved each year since 1998 when this provision was temporarily enacted.

This procedure, commonly referred to as "downpayment simplification," actually offers a simplified method of maximum mortgage calculation. The simplified method results in greater loan-to-value ratio loans than permitted under the previous method of maximum mortgage calculation.

This provision was first implemented as a successful pilot for residents of Alaska and Hawaii, and then was expanded nationally three years ago via a series of temporary extensions. The most recent extension of the authority for the simplified method of calculation is scheduled to terminate on December 31, 2002.

The simplified calculation multiplies a loan-to-value percentage times the lesser of the appraised value or the sale price. By contrast, the former system required that the acquisition cost first be determined, then two calculations were performed: one in which the acquisition cost was multiplied by a tiered series of percentages, and a second in

which the appraised value was multiplied by a factor. Under the former system, the maximum mortgage is the lesser of the two products.

Hybrid ARM Adjustments

NAHB supports this change, which will make hybrid adjustable-rate mortgages (ARMs) available at competitive rates and terms for FHA borrowers who otherwise would not be able to obtain funding under conventional hybrid ARM programs. NAHB does not believe that FHA hybrid ARMs constitute a threat to the market for conventional loans since many FHA borrowers are unable to qualify for conventional loans.

The bill shortens the allowable time frame for the first adjustment on FHA-insured hybrid adjustable-rate mortgages (ARMs) to three years from the present five years. The FHA was authorized to offer hybrid ARMs last year, but the adjustment may not exceed one percent, and the first adjustment may not occur before the end of the fifth year.

The limitation in current law on the amount of the initial adjustment and the holding of the initial adjustment period to five years make the FHA-insured hybrid ARM less attractive than conventional hybrid ARMs. This means that, under normal market conditions, lenders will not offer FHA-insured hybrid ARMs due to unfavorable pricing in the secondary market.

Special Provisions for Loans to Teachers and Public Safety Officers

The proposals contained in Sections 222, 223 and 224 provide important homeownership incentives for teachers and public safety officers. In addition, Section 223 will put into place a mechanism for the sale of HUD-owned homes to teachers and public safety officers who otherwise might not be able to attain homeownership. These provisions will contribute to the overall neighborhood stability while facilitating the liquidation of HUD-owned single family homes.

Section 222 reduces downpayment requirements for loans to teachers and public safety officers and authorizes the HUD Secretary to reduce downpayment requirements to one percent of the loan amount for FHA-insured mortgages.

This section allows the loan-to-value ratio of up to 99 percent for FHA-insured loans to teachers and public safety officers as compared to 97 to 98 percent for most other FHA borrowers. It also allows the cash contribution of eligible borrowers to be reduced to one percent of the acquisition price.

Section 222 also exempts eligible borrowers from the up-front mortgage insurance premium unless the borrower ceases to be a teacher or public safety officer or pays the mortgage in full within five years of the home purchase.

The Community Partners Next Door Program in Section 223 requires HUD-owned homes to be sold at a 50 percent discount to a teacher or public safety officer or to a unit

of local government or a nonprofit organization for resale to a teacher or public safety officer. The purpose of any sale must be to provide a primary residence for the ultimate homebuyer. This section also requires the HUD Secretary to put regulations in place that prevent “undue profit” upon the sale of homes acquired under this section.

Section 224 directs the HUD Secretary to implement a three-year pilot for zero downpayment loans for public safety officers buying homes in high-crime areas. The mortgage insurance premium for FHA-insured loans made under this program is set at one percent and, like other FHA mortgage insurance programs, can be included in the amount of the loan.

Prohibition on Investor and Nonprofit Participation in the 203(k) Program

Programs such as the 203(k) program can provide opportunities for investors to rehabilitate existing housing in neglected neighborhoods and can provide a stimulus to neighborhood redevelopment. NAHB believes that, if properly regulated and monitored, loans under HUD’s 203(k) rehabilitation loan program can and should be extended to investors, particularly loans to home building or remodeling professionals, without undue risk to HUD.

The bill would prohibit investor and nonprofit participation in the 203(k) rehabilitation loan program. In October 1996, in response to reports of 203(k) program abuse, HUD announced that investors were no longer eligible for 203(k) loans. Section 229 would incorporate the investor ban into law while adding a ban for nonprofit program participants.

Penalties for Fraudulent Activities

Sections 232 and 233 add additional protections for HUD from borrowers establishing records of default or defrauding HUD by overstating the value of collateral held for FHA-insured loans. NAHB supports these proposals as a means to reduce risk to the FHA insurance funds.

Servicing of HUD-Owned Loans by Rural Housing Service

Section 225 calls for the Rural Housing Service to service single family loans held by HUD. We believe that the Rural Housing Service servicing center has excess servicing capacity. NAHB supports this proposal to use government resources more effectively.

Risk-based Capital Levels for the Mutual Mortgage Insurance Fund

NAHB does not support the method provided in Section 226 to establish a new formula for determining a minimum adequate capital level for FHA’s Mutual Mortgage Insurance Fund (MMIF).

Under current law, the MMIF must maintain a capital ratio of not less than two percent. Section 226 would establish a new capital requirement equal to the sum of a one percent basic capital ratio plus a risk-based capital ratio. The risk-based capital ratio would be set at the level necessary for the MMIF to withstand mortgage defaults associated with a broad range of adverse economic circumstances.

The MMIF is funded entirely by the premiums collected from borrowers using FHA-insured mortgages, and the MMIF has not required taxpayer funds at any point since it was established in 1934. NAHB believes it is important to sustain this admirable record and, therefore, supports efforts to ensure that the MMIF maintains reserves that are sufficient to withstand future periods of economic distress.

However, for the FHA single family mortgage insurance programs to fully meet the mission of expanding homeownership opportunities, it is important that the MMIF capital requirement is set no higher than necessary to cover the claims and expenses related to the mortgages that have been insured. We are concerned that the expansive criteria and cumbersome process proposed for establishing a new, risk-based capital formula will produce a reserve requirement well in excess of the level actually needed to cover FHA's losses and expenses.

We are particularly concerned by the proposed requirement that the risk-based component of capital reflect not only events that have never occurred, but also encompass multiple such occurrences, along with previously experienced events, simultaneously or in rapid succession. It seems very likely that this formula prescription will produce unnecessarily high capital requirements and correspondingly burdensome premiums for FHA borrowers.

OTHER NOTABLE H.R. 3995 PROVISIONS

NAHB would like to comment on several other provisions in H.R. 3995.

Housing Impact Analysis

NAHB strongly supports the provisions under Title VIII, which require most federal agencies to conduct a housing impact analysis for any new proposed and final rule, if that rule will have an economic impact of \$100,000,000 or more on housing affordability. This measure will greatly help in reducing the number of regulatory barriers to the production of affordable housing.

Layers of excessive and unnecessary regulation imposed by all levels of government -- federal, state and local -- can add 20 to 35 percent, or thousands of dollars, to the cost of a new home, making it difficult or even impossible for families to achieve homeownership or find affordable rental housing. The housing industry needs sensible, appropriate, and balanced guidelines at all levels of government. NAHB believes the elimination of unnecessary barriers to the production of affordable housing should be a critical element

of our national housing policy, and we are pleased to see this provision included in H.R. 3995.

Section 8 Rental Housing Assistance Program

Extension Of Project-Based Section 8 Contract Renewals

NAHB supports Section 408 in Title IV, which amends the Multifamily Assisted Housing Reform and Affordability Act of 1997 (MAHRA) to revise the criteria for renewing rents for certain expiring project-based Section 8 contracts. Under existing law, when a Section 8 Moderate Rehabilitation project contract is up for renewal, the new rents must be set at the lesser of the existing rent, plus an operating cost adjustment factor; the fair market rent; or comparable market rents. In many cases, owners of Section 8 Moderate Rehabilitation projects who wish to stay in the program have had to reduce existing rents because fair market rents typically are lower. The result is a project that may be forced into financial distress, jeopardizing both the owner's investment and residents' homes. In other instances, owners opt out of the program rather than risk jeopardizing the financial stability of the project. The result is a loss of urgently needed affordable housing.

This provision puts the Section 8 Moderate Rehabilitation projects in the same category of other project-based projects and subject to the same renewal criteria, which generally provides renewals at the lesser of existing rents plus the operating cost adjustment factor or comparable market rents.

For those Section 8 Moderate Rehabilitation projects that are not federally insured and thus ineligible for the mark-to-market program (exception projects), renewal rents would be set at the lesser of existing rents, plus an operating cost adjustment factor, or budget-based rents, removing fair market rents as one of the criteria for determining the new rent.

NAHB believes that these are important provisions that address the inequity in treatment between moderate rehabilitation and other project-based developments when their Section 8 contracts come up for renewal. Section 8 Moderate Rehabilitation projects are an important source of affordable housing, and it is essential that they are not lost as part of the existing affordable housing inventory.

Subsidy Layering Review

NAHB is pleased to see Section 903 of Title IX included in the Act, which will eliminate duplicative requirements related to the subsidy layering review process by clarifying that states have the responsibility for subsidy layering reviews. Under current law, government entities are required to review the amount of subsidy an assisted housing property receives if funding is being provided by multiple government sources. HUD typically carries out the subsidy layering review process whenever federal funds are involved. The IRS requires state housing finance agencies to conduct a subsidy layering review on projects using the low income housing tax credit.

However, HUD is also required to carry out subsidy layering reviews on projects with tax credits if HUD funds are also being used. Some states have agreements with HUD to conduct those reviews, but the other states conduct their own reviews although HUD is also required to conduct the reviews. The result of these duplicative requirements is additional paperwork, reporting and delay and confusion in the tax credit approval process. Section 903 will eliminate the confusion and help smooth the approval process and completion of the project.

Public Housing/State Housing Finance Agencies

Waiver of Resident Commissioner Requirement

The Quality Housing and Work Responsibility Act of 1998 made some substantial changes to the public housing program and also added some new requirements related to how public housing agencies operate. One of these changes was a new requirement that all governing boards of public housing agencies must have at least one member who is directly assisted by the agency. The provision applies to both local public housing (PHA) and state housing finance agencies (HFA), if the agency operates a tenant-based voucher program and has a HAP contract with HUD.

Section 501, Subtitle A of Title V, would allow the Secretary of HUD to waive the resident board requirement for the state HFA and all local public housing agencies until the appropriate state enabling legislation or regulations are changed to require a resident board member.

While NAHB believes it is appropriate to require a resident commissioner at the local level because administration of the Section 8 voucher and public housing programs is typically the PHAs' main focus, we do not support the requirement for state housing finance agencies. Administration of Section 8 vouchers is a small part of HFAs' activities, which generally are focused on administration of the Low Income Housing Tax Credit, HOME, CDBG and tax-exempt bond activities. There is a process already in place that provides residents the opportunity to comment on the implementation of the Section 8 voucher program at the state HFA level, in addition to the input provided by Resident Advisory Boards. We do not believe the addition of a resident commissioner on state HFA boards is necessary to ensure resident input with those provisions already in place.

Section 501 only allows a waiver of the resident commissioner requirement until the states pass enabling legislation requiring the resident commissioner. We recommend that Section 501 be amended to permanently waive the resident commissioner requirement for state housing finance agencies.

HOPE VI Revitalization Program

NAHB supports the provisions in Subtitle B of Title V that reauthorize HOPE VI, reform the program to allow eligibility for smaller public housing agencies, provide for

appropriations and extend the program through September 2004. The HOPE VI program is contributing to the revitalization of low-income communities and providing opportunities for public-private partnerships in this effort.

Other Housing Programs

GNMA Guarantee Fee

NAHB supports Section 901 of Title IX, the repeal of the scheduled nine basis point increase in the Government National Mortgage Association (GNMA) guaranty fee. If allowed to become effective, this increase would have unnecessarily increased costs, which would have been passed along, generally to borrowers who could least afford additional mortgage financing costs.

Housing Counseling Programs

NAHB has long supported quality homebuyer education as a tool to help insure that families who achieve homeownership will be able to sustain it. Studies performed by Freddie Mac and the American Homeowner Education & Counseling Institute, of which NAHB is a founding member, show that loans to first-time home buyers who have received homebuyer education perform better than loans to those who have not received this training.

To be most effective, it is important that HUD concentrate and coordinate all of the resources dedicated to home counseling, whether for homeownership or rental housing, in a single office, as provided in Section 902 of Title IX.